

Friends of Mount Adams
PO Box 2108
White Salmon, WA 98672

Gifford Pinchot Task Force
917 SW Oak St., Suite 407
Portland, OR 97205

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Via Email To:

comments-pacificnorthwest-giffordpinchot-mtadams@fs.fed.us

Nancy Ryke: nryke@fs.fed.us

Erin Black: ekblack@fs.fed.us

Mitch Wainwright: mwainwright@fs.fed.us

Ms. Nancy Ryke
District Ranger
Mount Adams District
Gifford Pinchot National Forest
2455 HWY 141
Trout Lake, WA 98650

Re: Comments on the Preliminary Environmental Analysis - Mount Adams Grazing Allotment.

Dear Ms. Ryke,

Thank you for providing us additional time to carefully review the Preliminary Environmental Analysis for the Mount Adams Grazing Allotment (the "EA"). Based on our review, we submit these comments on behalf of the Friends of Mount Adams (the "FOMA") and the Gifford Pinchot Task Force (the "GPTF").

The Friends of Mt. Adams is a Washington non-profit dedicated to the protection of Mount Adams and the surrounding landscape. The Gifford Pinchot Task Force is a non-profit organization dedicated to the conservation and restoration of the forest, rivers, fish and wildlife of the Pacific Northwest. We look forward to working with you to address these concerns and open up a public process to consider other alternatives to the proposed continuation of grazing.

Our primary concern with the proposed Grazing Allotment is the result of the continued trespass by cattle outside of the allotment boundary and in the designated Wilderness high on Mt. Adams. We do not believe that the limited alternatives presented in the EA will achieve any real change on the cattle trespass issue. While we recognize that grazing is a recognized use on Forest Service managed public lands, we respectfully submit that it is not authorized and should not be permitted if it will negatively impact rare and sensitive meadow environments which are closed to these uses. We support responsible agriculture practices, including the continuation of grazing if it is done in a

way that prevents cattle incursions on closed areas and manages the grazing to prevent negative ecological impacts on riparian areas.

We request that you not approve this allotment unless and until you can adhere to and ensure compliance with federal law. The Forest Service, as manager of our public lands, must ensure compliance with binding protections for designated Wilderness and take action to end the direct, indirect and cumulatively damaging impacts that continued grazing is having on the high alpine environment found on Mount Adams.

The EA fails to disclose information regarding the Forest Service's own monitoring program. Instead, the EA belittles the work that volunteers have done to comprehensively monitor and document cattle trespass. The EA does not provide adequate measures to eliminate the potential significant affects from continued incursions on closed lands. Rather, the EA proposes only cosmetic changes to the authorized grazing program. The FOMA and the GPTF believe the mitigations in the EA will not be adequate to prevent chronic trespass across the fence line. While the EA identifies cattle trespass on the Gotchen meadows as a significant issue, the EA fails to include an analysis of the effects of trespass in the EA itself on Wilderness values. The EA fails to adequately disclose and analyze the direct, indirect and cumulative effects of continued cattle trespass in the Wilderness and high-alpine environment even though the impacts have been well-documented by volunteers with the Friends of Mt. Adams and other concerned citizens.

We submit that the EA does not adequately disclose or analyze the true costs of the trespass of cattle into this area and fails to properly analyze the effects of grazing on the meadows. The EA does not properly address the true costs of all alternatives presented in the EA, nor does the proposed authorization comply with the Aquatic Conservation Strategy and other binding components of the National Forest Management Act (NFMA).

Despite the long history of trespass on the Gotchen and Bird Creek meadows, which was addressed in a prior EA in 1994, the Forest Service has failed to take sufficient action to curtail it. The following comments detail our concerns regarding this project.

I. Introduction - Background and History

Mount Adams and the Bird Creek meadows complex, which encompasses the Gotchen meadows area, are a unique ecosystem harboring incredible biological richness. These areas have been slowly degraded over time because of a long history of domestic livestock grazing.

Grazing has been occurring on the slopes of Mount Adams since the early 1880's (EA, 1). In 1988, the Forest Service limited the cattle use to the current level of 516 cow-calf pairs. (EA, 2). Currently there is one permittee leasing the National Forest lands along with the lands east and south of the Forest Service Allotment (EA, 3). Based upon field surveys and extensive monitoring, volunteers with the Friends of Mt. Adams have

documented trespass grazing as one of the greatest threats to the restoration of the Gotchen Creek meadows complex. We have previously provided documentation of these surveys, including photographs of the damage, and incorporate that information by reference. We will now briefly summarize that information for your reference.

Trespass cattle have been a serious issue in this area for over four decades. Darryl and Darvel Lloyd have been documenting trespass cattle since the early 1970's. (See Appendix A (attached), A narrative of cattle trespass in Gotchen Creek meadows: 1974-2011, Darryl Lloyd, March 21, 2012). Trespass cattle into the meadow complexes were identified as a major issue even in the 1994 EA (1994 EA, page 45). Now, almost two decades later, the trespass continues without any substantive changes or effective corrective action.

Over the last two grazing seasons, 2010 and 2011, FOMA volunteers have monitored and recorded trespass of cattle in the Gotchen Creek meadows. (See Appendix B, Wrong Side of the Fence, FOMA 2010 and 2011). The FOMA has submitted these reports to the Forest Service and the permittee and requested meetings with the Forest Service and the permittee to resolve the issue of cattle trespass. Despite these efforts, FOMA volunteers still regularly observe and document illegal trespass into the Gotchen meadow complex as well as extensive damage to the meadow environment from this trespass. Although the EA acknowledges FOMA's reports, the EA fails to provide more than a cursory statement that FOMA is concerned about trespass (See EA at 15). This is not just a *concern* of our members and supporters; in fact this is a documented direct, indirect and cumulatively significant impact on this sensitive high-alpine landscape.

While our efforts to enforce the meadow closure have led to some minor improvements, including a swing shut gate, nothing has been done to ensure that these significant impacts do not occur. FOMA appreciates the Forest Service's work to install the swing shut gate on the trail as well as providing fence material to ensure better maintenance of the fence. However, there are piles of new posts, stays and wire that were expensively helicoptered into the area in 2010. Of all this material, the permittee has only put in one new fence post. We continue to be disappointed by Forest Service's failure to ensure that the permittee prevent his cattle from trespassing into the meadows and the Wilderness.

The Forest Service's continued failure to enforce the terms of the AOI or to cite the permittee for non-compliance with the AOI is in violation of federal law. The permittee must maintain the fence – it is not optional. Volunteers with the FOMA have documented on numerous occasions in the last two years where the fence has not been maintained or put up and as a result cattle have entered the Gotchen meadows. The Forest Service has not enforced the measures effectively and our public lands are being damaged.

The EA does not include any evidence that the Forest Service has taken any permit action in the form of a cautionary letter, notice of non-compliance or suspension of or termination of the permit due to chronic cattle trespass despite the fact that trespass

has been a major issue in this EA as well as past EA's regarding this permit (1994 EA and 2012 EA). The EA does little to substantively address the continued trespass on closed lands.

The EA does not adequately disclose how continued trespass grazing is damaging sensitive meadow plants and wildflowers and how the cow's waste is damaging and polluting the vernal ponds and streams. Furthermore, the cows continue to target riparian areas and damage stream banks and creeks.

To underscore the issues which you must address in an EIS, we have commissioned and included a letter from expert Wetland Ecology Joseph Leyda underscoring the kinds of direct, indirect and cumulative effects that grazing can have on this high-alpine landscape. We have also included the comments that the Gifford Pinchot Task Force and Conservation Northwest submitted on the Ice Cave Allotment and the supporting technical memorandum prepared by Jonathan J. Rhodes, an expert hydrologist who has extensive experience documenting the impacts of grazing on fish, riparian areas and the land.

II. Purpose and Need Statement.

The EA narrowly and incompletely defines the purpose and need. Under federal law, the purpose and need statement must "briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." NEPA CEQ §1502.13.

The EA does not adequately describe the desired future condition for these lands, but rather the EA cites to an outcome from the proposed action. The EA fails to define what "unacceptable damage" to resource values would be making it difficult for the public to grasp the EA's lack of information on the resource damages occurring on the Gotchen meadow complex. The EA describes much of the damage to areas on the allotment itself, but fails to describe the continued damage to the closed Gotchen meadow complex other than citing to an ecological survey that was done on two individual meadows within the meadows complex in one day's time. (EA at 39). There is no mention that a desired future condition is to prevent trespass grazing despite the fact that it is identified as a major issue. (EA at 15).

III. Issues.

On page 15 of the EA the Forest Service explains that trespass into Gotchen Creek meadows is a major issue. This issue has shown up in prior EA's addressing this grazing permit including the 1994 EA. The Forest Service has yet to adequately address this concern and continues to propose alternatives to address this issue that are ill-defined and

are inadequately analyzed to effectively address the significant direct, indirect and cumulative impacts that is resulting from the continued trespass into these meadows.¹

The Forest Service concludes that the continued trespass is not producing evidence of measurable resource damage. This conclusion is not supported by the facts in the record. First, the Forest Service has not disclosed or presented facts in the EA from monitoring reports (either from Forest Service personnel or the permittee) to support this claim. In fact, the consistent monitoring conducted by volunteers with the FOMA over the last two years demonstrates that the Forest Service's conclusion is erroneous.

Secondly, the Forest Service relies on a single day study to conclude that the meadows "appear to show major recovery from the previous era of heavy sheep and cattle grazing and the current level of incidental grazing observed do not pose a threat to meadow function." (EA at 15). Comparing the current level of grazing to the destructive practices that occurred before this area was designated in a protected status is irrelevant. The Forest Service must define what would be measurable resource damage and disclose that in the EA. Further, the ecology team resource study looked at only two meadows on this complex for one day to make that assessment. The agency presents no baseline data in its study to compare the data received on Gotchen meadow to a non-impacted meadow to allow it to draw the conclusion to support the assessments made in the study.

The Forest Service continues to believe that by stating that the AOI is expected to be adhered to and that adherence to the standards of regular fence maintenance will suffice is belied by the fact that this problem has persisted for over two decades. (EA at 16). There has been no effective enforcement of the AOI to prevent trespass. The expectation that adherence to this AOI will suddenly change because of this new permit is outrageous in light of the Forest Service's complete failure to protect the public resource. The AOI is a major component of the permit and should be described in detail and analyzed in the EA as to effectiveness. FOMA and GPTF request that the agency disclose and analyze the content of the AOI, the function of an AOI within the permit process, and present records of compliance or failure to comply with the AOI's in the past few years.

Additionally, the EA states that to avoid any cattle trespass the proposed action includes reconstructing the north drift fence to a point of "good condition." (EA at 16). However, the EA fails to define what is meant by reconstruction of the drift fence and also what "good condition" means. A description of the fence with the standards to be used in the design of the fence should be included in the EA and analyzed for effectiveness either as an appendix or within the EA itself. Without this specificity the EA is deficient and insufficient for making a reliable and informed decision in this matter.

IV. Alternatives.

¹ See 1994 EA. The Forest Service has failed to implement aspects of the mitigation measures including the construction of a fence along the lava bed.

A. Inadequacy of the Disclosure in the Alternatives Presented.

The National Environmental Policy Act “declares a broad national commitment to protecting and promoting environmental quality.” Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 348 (1989); see 42 U.S.C. § 4331. NEPA’s disclosure goals are two-fold: (1) to ensure that the agency has carefully and fully contemplated the environmental effects of its action, and (2) “to ensure that the public has sufficient information to challenge the agency.” Robertson, 490 U.S. at 349; Idaho Sporting Cong. v. Thomas, 137 F.3d 1146, 1151 (9th Cir. 1998), overruled on other grounds, Lands Council v. McNair, 537 F.3d 981 (9th Cir. 2008) (en banc). NEPA “ensures that important effects will not be overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast.” Robertson, 490 U.S. at 349.

NEPA requires that a federal agency must “take[] a hard look” at the potential environmental consequences of the proposed action.” Or. Natural Res. Council v. BLM, 470 F.3d 818, 820 (9th Cir. 2006) (internal quotations omitted). The agency’s environmental document must include a discussion of direct, indirect, and cumulative environmental impacts of the proposed action. Direct impacts are “caused by the action and occur at the same time and place.” 40 C.F.R. § 1508.8(a). Indirect impacts are “caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.” Id. § 1508.8(b). Cumulative impacts result when the “incremental impact of the action [is] added to other past, present, and reasonably foreseeable future actions” undertaken by any person or agency. Id. § 1508.7.

A threshold question under NEPA is whether the proposed action may significantly affect the environment, thereby triggering the requirement for an EIS. Blue Mountains Biodiversity Project v. Blackwood, 161 F.3d 1208, 1212 (9th Cir. 1998) (citing 42 U.S.C. § 4332(2)(C)). If an agency is uncertain whether a proposed action may have a significant effect on the environment, it may first prepare an EA. 40 C.F.R. § 1508.9. The purpose of an EA is to provide the agency with sufficient evidence and analysis for determining whether to prepare an EIS or to issue a FONSI. Metcalf v. Daley, 214 F.3d 1135, 1143 (9th Cir. 2000) (citing 40 C.F.R. § 1508.9). “Because the very important decision whether to prepare an EIS is based solely on the EA, the EA is fundamental to the decision-making process.” Id. If the agency decides not to prepare an EIS, the agency’s FONSI must set forth a “convincing statement of reasons” to explain why the action will not have a significant impact on the environment. Blue Mountains, 161 F.3d at 1212; see also 40 C.F.R. §§ 1501.4(e), 1508.13. Under NEPA the agency is obligated “to make available to the public high quality information...before decisions are made and actions are taken.” W. Watershed Project v. Kraayenbrink, 632 F.3d 472, 492(9th Cir. 2011).

Given the significant impacts on the land, the alternatives presented and analyzed in the EA are inadequate and do not provide the detail necessary to allow the agency to make an informed decision amongst the alternatives presented in the EA. For example, Alternative A does not provide the costs of reconstruction or the details of what “reconstruction” means in the context of this EA. Without this basic information, the

Forest Service and/or the public cannot adequately analyze the effects of the proposed action. See W. Watershed Project, 632 F.3d at 492.

FOMA and GPTF would also like to stress that implementation of any mitigation measures and mitigation alternatives presented in this EA must be appropriately implemented to standards and adequately monitored for implementation. The EA does not discuss a monitoring program for the mitigation measures or alternatives presented in the EA. CEQ guidance, although not binding on federal agencies, stresses the important point that “agencies should not commit to mitigation measures considered and analyzed in an EIS or EA if there are insufficient legal authorities, or it is not reasonable to foresee the availability of sufficient resources, to perform or ensure the performance of the mitigation.” (Memorandum on the Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact, http://ceq.hss.doe.gov/current_development/docs/Mitigation_and_Monitoring_Guidance_14Jan2011.pdf, page 6 (attached)). FOMA and GPTF request that the agency ensure that any mitigation measures or alternatives measures taken in this EA be appropriately administered according to the guidance set out by the Council on Environmental Quality.

B. Alternative A: Proposed Alternative

Alternative A as presented in the EA has significant flaws. For example the EA fails to present the economics or design details of a reconstructed fence that is 0.85 mile long. There is no clear delineation of what reconstruction means in the context of the EA. Does this mean that the fence will be rebuilt? If so, what are the economics surrounding the rebuilding of the fence? Later in the EA it discusses the economics of constructing the new fence for Alternative B so it is imperative that reconstruction costs be included for all alternatives in a new NEPA document prior to a decision being made.

Additionally, what is the timeline for reconstruction? Would the fence be reconstructed prior to issuance of the new 10 year permit? Without this information it is difficult for the public to have a clear understanding of the costs and benefits of all alternatives in relation to each other. Additionally, the agency’s presentation of Alternative A does not acknowledge or address the complete failure of the permittee to maintain the fence. Without addressing this concern Alternative A cannot correct one of the significant impacts of past management which the Forest Service admits has been occurring in its EA. Alternative A does not include a detailed plan for how the Forest Service will administer the AOI to ensure the fence is maintained and cattle do not trespass. Will the Forest Service conduct field visits? What enforcement measures will the Forest Service pursue? How will the agency ensure compliance with the AOI?

The Forest Service has not explored an option that requires the new fence and/or reconstruction prior to renewing authorization of grazing in this unit. The analysis of Alternative A is based on the *future* and the unsupported assumption that a reconstructed fence will be built to preclude or diminish the likelihood of trespass grazing. Furthermore, without a sound maintenance plan for this Alternative the agency does not show it to be rational and workable. The EA currently fails to include the economics or

definition of the reconstructed fence and without this analysis the public and the Forest Service cannot make an accurate determination of the best alternative. In addition, in the absence of sound fencing, potential effects described in the EA cannot be found to be less than significant and therefore an EIS is warranted.

C. Alternative B: Exclusion Fencing.

Alternative B was designed to address the concerns about the northern drift fence and the maintenance to ensure the fence does not fail. Although FOMA and GPTF appreciate that this fence will be located in an area that potentially offers easier access via roads, the cost associated with this alternative has not been disclosed or analyzed in the EA. The cost may prohibit actual implementation thus making this alternative infeasible.

Regardless of the cost, the current fence is of a poor condition and not maintained. The EA proposed an even much longer fence in Alternative B which will require more maintenance—when maintenance is not happening already and maintenance is very unlikely to occur in the future. In fact Alternative B would very likely make the trespass situation worse. The only way Alternative B is viable is for the Forest Service to include a detailed plan as to how the agency plans to ensure fence maintenance.

FOMA and GPTF have some concerns about Alternative B. First, the EA does not make clear whether or not this alternative is financially feasible. In several areas of the EA the Forest Service makes clear that the costs of the fence would require much more than funds annually allotted to the FS for range management. (EA at 26). Does this mean that the fence will be built in increments and take multiple years to complete? The EA mentions that alternate funding sources would be required (EA at 26), but it does not indicate if that alternative funding source would be secured prior to the issuance of the grazing permit? Second, the Yakama Nation has given a tentative okay to build the fence, but has not confirmed that they would support this alternative. (See EA at 26). Without approval from the Yakama Nation, this fence may not be built. The EA does not outline how this alternative is feasible.

D. Alternative C: No Grazing.

Alternative C, the no action alternative, contains very little analysis. Alternative C fails to effectively analyze the length and costs associated with a boundary fence, which FOMA and the GPTF submit should have been included in the analysis portion of this alternative. Alternative C also does not analyze the restoration of the meadows that might occur should grazing cease to exist on these public lands. No information is presented in the EA on what could occur on these meadow environments if grazing was not allowed at all.

Although we recognize that trespass is possible with this scenario, as it is in all the other alternatives, there would be a strong enforceable right should grazing be banned on all Forest Service managed lands. Additionally very little is known about what would occur on other adjacent boundary allotments. For example, would the Yakama Nation

continue grazing their allotment? The lack of information in this EA prevents the Forest Service from making an informed decision among these alternatives and likewise does not provide the public the information necessary to understand the project's impacts. Alternative C, which would not authorize grazing, would be the best scenario if cattle would or could be prevented from drifting onto the public lands. However, very little data is presented on the costs of constructing a boundary fence along the entire National Forest boundary adjacent to neighboring land owners where grazing might exist, the costs of enforcing the closure of this allotment in relation to the benefits from no grazing on the allotment and meadow environments.² Without this basic information the EA is inadequate.

V. Chapter 3--Affected Environment and Effects.

A. Riparian and Meadows Area (EA, 38-39).

The EA clearly states that the wetland complex known as Gotchen and Bird Creek meadows is a unique area and represents a diversified population of plants (EA, at 38), but downplays the trespass cattle incursions as a serious threat to that environment. The Forest Service bases this opinion on a study conducted in a single day on two meadows located in the Gotchen Creek meadow complex (EA at 39, see also Gotchen Meadow Assessment). FOMA and GPTF submit that a scientifically reliable, comprehensive study of the Gotchen Creek meadows is needed to establish a baseline from which to start measuring impacts is required as part of a hard look at the impacts of this proposal.

FOMA submits that the study does not accurately portray the significance of the effects on the Gotchen Creek meadow complex because the study only analyzed two meadows. FOMA would like to request an analysis especially of meadow 1B on the FOMA map be analyzed as it is the most sensitive meadow to incursion. Meadow 1B includes vernal ponds and sensitive wet meadows that are both befouled with trespass cattle feces and vegetation loss.

In addition, the EA fails to recognize damage to Gotchen Creek meadows in the resources section of the EA and therefore fails to disclose all cumulative impacts. The EA seems to define the NEPA analysis area as the area encompassing the allotment on which grazing would be authorized. Areas, such as the Gotchen Creek meadow complex, where unauthorized use occurs, were not included in the entire project's analysis. Generally, the geographic scope of the NEPA analysis area is a task assigned to the Federal agencies, here the Forest Service. Kleppe v. Sierra Club, 427 U.S. 390,414 (1976). However, an agency is not allowed to arbitrarily constrain the geographic area for analysis. See *id.* at 412. "An agency must provide support for its choice of analysis area and must show that

² We recognize that the EA presents the costs of the entire boundary fence, but the EA fails to actually account for whether that fence could be built, how that costs compares to no grazing, etc. (See EA at 53).

it considered the relevant factors.” Native Ecosystems Council v. Dombeck, 304 F.3d 886,902(9th Cir. 2002).

Given the extensive history of cattle trespass in this area (See Darryl Lloyd’s report and FOMA’s 2010 and 2011 reports) and the fact that it is considered an issue within the EA itself, the geographic scope and NEPA analysis on affected environment should have included the trespass area and Gotchen Creek meadows. The geographic scope of the analysis is critical to establishment of baseline conditions of the affected environment. “Without establishing...baseline conditions...there is simply no way to determine what effect [an action] will have on the environment, and consequently, no way to comply with NEPA.” Half Moon Bay Fisherman’s Marketing Ass’n v. Carlucci, 857 F.2d 505, 510 (9th Cir. 1988). The mere assertion in all alternatives that cows will continue to trespass on Gotchen Creek meadows under the management strategies proposed does not constitute an analysis of the environmental effects of that trespass. See KS Wild v. BLM, 387 F. 3d 989,995 (9th Cir. 2004). The lack of analysis is simply not sufficient to comply with NEPA. See Friends of the Clearwater v. Dombeck, 222 F. 3d 552, 557(9th Cir. 2000).

B. Monitoring Studies (EA 42).

The EA insufficiently discusses monitoring and ignores the issue of monitoring for trespass cattle all together. The EA only looks at short term monitoring and conducts monitoring at fixed points. The utilization studies conducted by the Forest Service for this EA failed to acknowledge areas on the Gotchen Creek meadows and only placed utilization cages for one season at the insistence of FOMA. (See EA, page 42- 47.) The EA does not sufficiently monitor areas outside of the allotment and therefore ignores a critical area of concern. Therefore, the EA does not provide the level of analysis required by NEPA.

C. Effects Analysis.

Alternative A: The assumption presented in this section of the EA does not agree with the earlier description of the activities for this alternative. The costs associated with this alternative and the maintenance standards are poorly analyzed and do not reflect an accurate or real picture of the current grazing situation.

The EA on page 48 states that “the indirect costs associated with this permit would remain the same as the current situation...” In addition it also states that the “costs of range improvement maintenance inspections by the Forest Service is expected to stay the same.” (EA at 49). However, that could not possibly be accurate if, for example, the fence is to be maintained to standards, which it currently does not meet. Costs would have to go up due to increased visitation to the fence-line for monitoring and work to maintain the fence. Improvement costs would also be substantial. To state that FS costs would stay the same is to presume that current levels of administration are adequate. FOMA’s monitoring has proven that is not the case. The EA fails to provide accurate details of or descriptions of standards they intend to meet

The EA continues to talk about fence-line being maintained to Forest Service standards and specifications, but it fails to provide where the public could find specifications or understand what that standard means. FOMA and GPTF assume that those standards are easily determined and/or present in the current AOI, but they are not. The EA should include those standards and analyze the Alternative with those standards in mind.

Additionally, the EA speculates in regards to the socio-economics of the area. It states that “the land is increasingly desirable for ranchettes for second homes.” The EA fails to indicate where this assumption comes from and should provide more details about real possibility of land in this area being converted to second home should the Forest Service not re-new the grazing allotment. The Forest Service allotment is only a portion of the total grazed land in the larger area. There is no discussion in the EA that other allotment owners including the Yakama Nation, Hancock and DNR would cease grazing on their lands should the Forest Service close this allotment. Assumptions of this nature should not be made in an EA unless there is information that all grazing will cease. Earlier the EA stated in Alternative C that cows would continue to graze on public lands because they would drift onto the area from other allotments to the East and South(see Alternative C discussion, EA at 30). It seems that this section is directly contradicting those earlier assumptions.

Klickitat County zoning provides for agricultural lands to remain in agriculture uses maintaining private land open space. The Forest Service does not have expertise in private land economics and for the agency to point to possible agricultural land conversion is pure speculation. It is just as accurate to speculate that agricultural land will in fact be protected from conversion.

Alternative B: FOMA and GPTF submit that Alternative B is not feasible. The costs of the fence alone are indicated to be between \$75,000 and \$97,500. The EA admits that neither the Forest Service nor the permittee currently have the resources necessary to implement alternative B. (EA at 50). Because the Forest Service cannot ensure that the fence will be built before grazing commences, this alternative will not address the concerns of trespass grazing.

Specifically, the current fence-line is approximately 0.85 miles and in disrepair. Would increasing the mileage of a fence-line change the situation or would it make the maintenance of that fence-line increasing unattainable? Without adequate maintenance we submit that the public will have to endure the same problem with trespassing cattle as we do now. How will increasing the fence-line or moving the fence lower address the issue of cattle trespass? In fact the problem would likely be worse under Alt. B. Improving the fence and ensuring it is maintained to standards is the only way to address trespass grazing. The EA should include what the standards of this fence would be, what the costs associated with proper maintenance would be, and when and how maintenance would be enforced. The EA should also address the calendar for monitoring the fence-line, and the area to be monitored to ensure that all standards that we assume the Forest

Service is addressing will be met. Without these details the “efficacy of this measure is... doubtful.” See Foundations for N. American Wild Sheep v. U.S. Dep’t of Agric., 681 F. 2d 1172, 1181(9th Cir. 1982).

Alternative C: The Forest Service fails to provide adequate analysis of the benefits of closing the allotment. The EA simply provides a cursory statement that the “range condition and rangeland health wouldn’t be expected to change considerably,” without pinpointing any scientific research from which this conclusion was drawn. (EA at 53). The Forest Service’s own one day ecology team study claimed that there were significant improvements to the Gotchen Creek meadows from closing the Gotchen Creek meadow complex to grazing (See Gotchen Meadows Assessment: Field Trip Report Mt Adams Ranger District, September 28th, 2010, page 14, “While historic impacts have influenced species ...soil structure appear to show significant recovery from a previous era of heavy sheep and cattle grazing”). Should we not see the same significant improvements to the entire allotment if that allotment were closed? The EA should provide some basis for this reasoning and provide a more detailed analysis of closing this allotment that includes an analysis of benefits to the meadows and general allotment.

The EA also fails to disclose whether the Forest Service would build a boundary fence to exclude cattle from adjacent lands trespassing. Although the EA discloses the costs of the boundary fence to be between \$120,000 and \$190,000, it does not provide details on whether it would consider building the fence. The EA should disclose this information to provide the public with an opportunity to understand the feasibility of the alternatives presented in the EA.

The EA also does not provide an accurate picture of the loss of grazing on public lands. Again the assumption in this section is that all allotments to the east and south including the Yakama Nation lands, DNR, and Hancock would be closed to grazing, but that has not been validated anywhere in the EA. There has been no definitive statement that by closing this allotment all other allotments would be inaccessible or financially unfeasible. Without this analysis this assumption does not seem valid.

The Forest Service should have the data to accurately calculate the financial loss because they have closed two allotments recently, Twin Buttes and Ice Caves. It seems logical that the Forest Service analyze the previously closed allotments to figure out the economics argument in this section, but they failed to do so. See EA page 54. The EA should include this information.

As per the discussion on Alternative A, the opinion on agricultural land conversion from open space is speculation. And this speculation seems self-serving and designed to influence to choose one alternative over another. Klickitat County has designated which lands are open for residential development and which are protected for resource uses. Washington SEPA and land use planning regulations are in place and designed to protect agricultural land from rampant conversion. One could just as easily speculate that there is no market for second homes in this area and that agricultural land

is not likely to be converted to other land uses. There is no factual or legal support for the Forest Service's conclusion.

VI. Wildlife Species and Habitat.

A. Mardon Skipper Butterfly

We request that the map on page 57 of the EA be revised to include a date when the map was created. In addition, we request that the agency disclose when the survey was done and where the survey was completed. The US Fish and Wildlife Service reports a Mardon Skipper butterfly site on the Round the Mountain Trail at the boundary of National Forest and Yakama Nation land (Vince Harke, FWS, phone con. 10/28/10). With a known site in the vicinity, the FS should analyze the impacts of trespass cattle grazing on Mardon Skipper butterfly potential habitat in the Gotchen meadows.

Furthermore, the EA is inadequate because it fails to conduct surveys outside the allotment boundary. We reiterate our request that surveys be done outside the allotment boundary in the Gotchen Creek meadow complex because this area is affected by the authorized action. This should be included in any proper NEPA analysis for this action.

B. Elk and Deer.

We request that the revised EA provide a description and picture of the new fence construction and or reconstruction being proposed for Alternative A and B. On Page 65 of the EA it states that the new fence "may create a minor barrier to elk and deer movement" and that it would be built "utilizing methods that would facilitate the ability of elk and deer to jump over," yet it fails to provide a clear description or picture of that fence. We believe that the fence in any alternative should be reconstructed according to "wildlife friendly" standards. Fence design and construction standards should be shown in the EA to allow the public a complete understanding of all the consequences of the alternatives presented. Without this information the EA fails to meet the NEPA guidelines.

VII. Failure to Comply with Aquatic Conservation Strategy (ACS) Objectives.

The Gifford Pinchot National Forest Land and Resource Management Plan specifically address the need to comply with ACS objectives when administering the Grazing Allotment. (See GPNF Land and Resource Management Plan (LRMP) at 2-40). Grazing practices that retard or prevent the attainment of ACS are strictly prohibited and grazing must be eliminated if adjusting those practices is deemed ineffective. (Id.)

We respectfully submit that the proposed renewal of grazing does not comply with the National Forest Management Act (NFMA). The Gifford Pinchot National Forest must act consistently with the requirements of the Northwest Forest Plan when making decisions and authorizing activities like grazing on our public lands. 16 U.S.C 1604(i); 36 C.F.R. 219.10. "In order to ensure compliance with the forest plan and the [NFMA], the Forest Service must conduct an analysis of each 'site specific' action, such as a timber

sale, to ensure that the action is consistent with the forest plan.” Native Ecosystems Council v. U.S. Forest Serv., 418 F.3d 953, 960 (9th Cir. 2005) (quoting Idaho Sporting Cong., 305 F.3d at 962).

The federal government adopted the Northwest Forest Plan (NWFP) in 1994 as a comprehensive forest management plan that... imposes specific obligations on public lands managers by amending their resource management plans. See Klamath Siskiyou Wildlands Ctr. v. Boody, 468 F.3d 549, 552–53 (9th Cir. 2006) (“KS Wild I”). The NWFP established an ACS to “restore and maintain the ecological health of watersheds and aquatic ecosystems.” Klamath Siskiyou Wildlands Ctr. v. U.S. Forest Serv., 373 F. Supp. 2d 1069, 1092 (E.D. Cal. 2004) (“KS Wild II”).

The ACS includes nine specific objectives for restoring watersheds. For the GPNF to make a finding that its proposed action “does not prevent attainment” of the ACS objectives, “the analysis must include a description of the existing condition, a description of the range of natural variability of the important physical and biological components of a given watershed, and how the proposed project or management action maintains the existing condition or moves it within the range of natural viability.” KS Wild II, 373 F. Supp. 2d at 1093. The EA does not supply the required descriptions or explanations of the ACS and it fails to provide adequate data on the riparian conditions on which to make the determination that the proposed grazing will not prevent attainment of the ACS objectives.

The EA asserts that the alternatives presented would “maintain the riparian vegetation and aquatic conditions at the watershed scale, and help restore riparian vegetation and aquatic conditions,” but provides information throughout the EA that demonstrates clear damage to riparian areas including wet meadow environments, riparian habitat, springs and streambanks. (EA at 79, 80, 81, 82). Grazing in the project area has also reduced and suppressed the distribution and extent of native riparian vegetation. (EA at 91). Cattle grazing damages riparian and meadow vegetation and has repeatedly been shown to contribute to elevated water temperatures. (Beschta et al., 1987; Rhodes et al., 1994; McCullough, 1999).

The re-authorization of grazing on these public lands conflicts with the attainment of several ACSOs in the NFP, including ACS 3, ACS 4, ACS 5, ACS 8, and ACS 9.

Past history clearly demonstrates that drift fences are completely ineffective. Cattle will continue to find a way around those fences. Therefore, it cannot be assumed that the drift fence in Alternative A and Alternative B will always be effective in preventing grazing in the area assumed to be effectively removed from grazing in the EA. Thus the ACS requirements are not being met by the alternatives A or B in the EA.

VIII. Botany.

FOMA and GPTF submits that the Forest Service has not adequately disclosed the direct, indirect and cumulative effects from the proposed grazing on Pale Blue-eyed

Grass (*Sisyrinchium sarmentosum*) which grows in seasonally moist grass/sedge meadows and small openings between 365 feet and 5,700 feet elevation. This plant species is a Federal Species of Concern and a FS “sensitive species.” The EA is inadequate because it does not indicate whether surveys were completed for the plants in the Gotchen Creek meadow complex. We repeat our request that the Forest Service conduct surveys in this area.

IX. Wilderness and Recreation.

The production of livestock is one of five uses that were granted special status to continue in designated Wilderness areas if they existed prior to the land being designated. Nonetheless, the FS must disclose the direct, indirect and cumulative significant impacts that continued livestock grazing will have on Wilderness values.

The proposed authorization of grazing on these public lands poses significant direct, indirect and cumulative conflicts between cattle and recreational visitors. The conflicts are situational: encounters with manure, livestock-related structures (fences and salt licks) and livestock themselves. People come to enjoy a natural environment, not to see cattle near high alpine creeks, along Wilderness trails, in campsites or in wildflower meadows. These encounters significantly undermine the experience that hikers come to enjoy. We have documented trampling in chronically wet areas and areas that normally do not receive cattle grazing, like Bird Creek Meadows and Gotchen Creek Meadows.

People come to the Mount Adams area in general and the Gotchen and Bird Creek meadows specifically to enjoy a wild and natural environment. Many people hike and ride the trails within the proposed allotment and it is a prized location for wildflower enthusiasts. The EA does not adequately disclose or analyze the significant impacts that grazing has had and will continue to have on the recreational experience in this area.

The portion of the Mt. Adams Wilderness that is at the north edge of Gotchen meadow 1b is closed to grazing. However on numerous occasions FOMA monitoring has found evidence of trespass grazing in this area of the Wilderness. Backpackers use dispersed campsites adjacent to the Snipes Mountain Trail and in the purported closed areas for overnight camping. Trespass cattle have befouled these campsites with cow feces and stream pollution. Trespass cattle eat some species of wildflowers such as the Monkeyflower and others. Destruction of wildflowers affects recreationist’s experiences of seeing meadows in a natural condition.

The EA states, without any support, that some people enjoy seeing cows and cowboys. Does the Forest Service have any evidence that a general appreciation for cows and cowboys means people appreciate having cows and cowboys trampling rare plants in the Gotchen Creek meadows area. FOMA volunteers have talked with numerous hikers in the area. People uniformly do not like to see cows in the areas they know to be closed to grazing.

X. Cumulative Impacts.

“To be useful to decision makers and the public, the cumulative impacts analysis must include some quantified or detailed information... general statements about possible effects and some risks do not constitute a hard look absent a justification regarding why more definitive information could not be provided.” *Ocean Advocates v. US Army Corps of Eng’s*, 402 F.3d 846,868 (9th Cir. 2004) (Internal quotes omitted).

The EA acknowledges that livestock authorized to graze on the Gifford Pinchot National Forest will trespass onto the Gotchen Creek meadows, but it fails to adequately disclose the impacts of this continued grazing in the effects analysis. It does not disclose or discuss the combined impacts of trespassing livestock with the existing authorized grazing itself.

There is a long history of the Forest Service not administering grazing permits to avoid trespass grazing. This has resulted in cumulative impacts to the Gotchen Creek meadows. The EA has given no concrete direction or evidence that this pattern will change, only promises. It appears to FOMA and GPTF that the Forest Service presumes that these entities will continue to do the job of monitoring trespass grazing. This presumption also seems to drive the FS analysis of cumulative effects of cattle trespass. But the Forest Service must assess the cumulative impacts of trespass grazing as if these volunteers were not there to do the Forest Services’ job of monitoring. This EA must assess the cumulative impacts of continued trespass grazing.

The EA violates NEPA because it fails to provide any analysis of direct, indirect, or cumulative impacts of grazing under the proposed alternatives that is based on hard evidence and ignores cumulative impacts that the authorized grazing will have on the Gotchen meadows.

XI. Environmental Impact Statement.

FOMA and GPTF submit that the Forest Service must adequately disclose the direct, indirect and cumulative effects in an EIS that considers a broader range of alternatives. The reauthorization of grazing on this allotment is not proper under an EA. The Forest Service must prepare an EIS because this action “may have a significant impact upon the environments.” *NPCA*, 241 F.3d at 730.

The NEPA regulations outline factors that an agency must consider in determining whether an action may significantly affect the environment. *Sierra Club v. U.S. Forest Serv.*, 843 F.2d 1190, 1193 (9th Cir. 1988); 40 CFR 1508.27. In a number of cases, Courts have found that federal land managers violated NEPA when authorizing livestock grazing on public lands without an EIS. See, e.g., *Idaho Watersheds Project v. Hahn*, 307 F.3d 815 (9th Cir. 2002) (affirming district court’s permanent injunction that established deadlines for environmental analysis of Owyhee grazing allotments after finding NEPA violations, while imposing interim management conditions); *W. Watersheds Project v.*

Bennett, 392 F. Supp. 2d 1217 (D. Idaho 2005) (ordering BLM to prepare EIS to study grazing impacts on sage-grouse, and entering injunctive relief); Or. Natural Desert Ass'n v. Singleton (“Singleton I”), 47 F. Supp. 2d 1182, 1196 (D. Or. 1998) (“The BLM is therefore ordered to prepare an EIS which includes consideration of reasonable alternatives to its proposed action”); Or. Natural Desert Ass'n v. Green, 953 F. Supp. 1133, 1146–48 (D. Or. 1997) (holding that BLM violated NEPA when it failed to prepare an EIS where record showed grazing may cause significant impacts) & No. 95-cv-2013-HA, Final Judgment (Dkt # 154) (D. Or. May 5, 1997) (enjoining grazing within river corridor until BLM prepared new river plan consistent with requirements of NEPA and Wild and Scenic Rivers Act); see also Or. Natural Desert Ass'n v. Singleton (“Singleton II”), 75 F. Supp. 2d 1139, 1153 (D. Or. 1999) (“The court will retain jurisdiction until the BLM reports to the court that the EIS has been completed”).

The Federal District of Oregon’s decision in Singleton provides an important benchmark. In that case, Oregon Natural Desert Association challenged the BLM Resource Area’s decision to adopt a management plan for the Owyhee Wild and Scenic Rivers, which flow through the heart of the Louse Canyon GMA. Singleton I, 47 F. Supp. 2d at 1184–90 (case background). ONDA was concerned that the grazing BLM proposed to allow in its river management plan would damage wildlife habitat and other values. See *id.* at 1185, 1193. In that case the BLM acknowledged areas heavily damaged from cattle grazing, but decided the impacts from continued grazing would not be significant. *Id.* at 1185–86. The held that BLM violated NEPA by not preparing an EIS. *Id.* at 1194, 1195–96. Judge Redden pointed out that “when BLM made the FONSI, it knew grazing had negatively affected specific sites. However, it had no *baseline data* on the quality or quantity of vegetation at the affected sites or elsewhere.” *Id.* at 1193 (emphasis added); see also *id.* at 1194 (pointing out that the record also showed that “BLM had no utilization studies for riparian areas” and that the challenged plan’s grazing standards “were not correlated to any utilization studies because the BLM had none”; “The evidence indicates that the utilization standards represented nothing more than the grazing levels in existence at the time the Plan was promulgated”).

The facts in Singleton are strikingly similar to the facts here. The Forest Service lacks key baseline data—particularly regarding the condition of reference conditions in other high alpine areas where grazing does not occur. The Forest Service proposes to simply carry on with status quo grazing despite the documented environmental damage and lack of baseline information. Worse than in Singleton, the agency here has declined to even attempt to defend the legality of its decision even though it admits that cattle trespass is a significant issue in the EA.

XII. GPNF Land and Resource Management Plan.

The Gifford Pinchot National Forest LRMP has detailed substantive requirements to protect resource values. The range management must include:

“1. A range inventory and analysis should be completed for each active allotment at least once every 10 years.

2. An allotment management plan should be developed for each active allotment.
3. Allotment periodical evaluation and monitoring should be conducted throughout the grazing season. The analysis should assess the condition of soils, water, stream channel condition, botanical areas, and wildlife habitats to determine if the Aquatic Conservation Strategy objectives are met. Also assessed should be native plant vigor and production, composition, and utilization. Protection may include such measures as range rotation and curtailment in critical areas; e.g., natural openings and riparian areas with the use of salting, fencing, and other methods.
4. Structural and nonstructural range improvements will be maintained in working condition by the parties designated in the term grazing permit.
5. When management activities remove natural barriers, fences will be constructed or extended as needed to maintain livestock control.
6. In watersheds which supply domestic water, livestock grazing may be permitted if an analysis of potential effects determines that degradation of that supply will not occur.
7. Conflicts between domestic livestock and big game deer and elk should be resolved in favor of big game deer and elk.
8. Rehabilitation projects on areas degraded by livestock grazing and associated management activities should be done as soon as possible.”

GPNF LRMP at 2-39. The Forest Service has not provided adequate analysis in the EA to meet several of the requirements allocated to range lands in the GPNF LRMP. For example the fence has not been maintained in working condition as required by the LRMP and as a result, the agency has not ensured that riparian areas are protected as required by the LRMP:

“1. Livestock grazing may be permitted if riparian values are protected. Of particular concern are:

- a) Water quality
- b) Stability of stream and lake banks
- c) Soil compaction
- d) Riparian vegetation
- e) Fish and wildlife habitat
- f) Sensitive plants

2. Bedding grounds will not be permitted in riparian areas.

3. Water developments (stock tanks), salting, fencing, driving enclosures, and seasonal use should be placed or timed to disperse grazing stock away from Riparian Reserves, Sensitive Botanical Areas, and Research Natural areas.”

GPNF LRMP at 2-40. As mentioned above in various sections of these comments FOMA and GPTF do not believe that riparian values are being protected from impacts to grazing.

XIV. Conclusion.

Thank you for requesting comments on this issue. If you have any questions please do not hesitate to contact FOMA Board Chair, Jurgen Hess, at 541-386-2668 or hess@gorge.net or GPTF Conservation Director, Jessica Schafer, at 503-221-2102 ext. 101 or jessica@gptaskforce.org.

Sincerely,

/s/ **Jurgen A. Hess**, Chair,

Friends of Mount Adams

/s/ **Jessica Schafer**, Conservation Director,

Gifford Pinchot Task Force